

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

<p>ERIC WESLEY SARGENT,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: right;">4:15-cr-20767</p> <p style="text-align: center;">HON. TERRENCE G. BERG</p> <p style="text-align: center;">ORDER DENYING EMERGENCY MOTION FOR BAIL</p>
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This case was recently before the Court on federal prisoner Eric Sargent’s *pro se* 28 U.S.C. § 2255 habeas petition. On April 30, 2020, this Court issued an Order denying the habeas petition. Because of delays in receiving mail associated with the COVID-19 pandemic, at the time the Court issued the Order it was unaware that Petitioner’s motion for emergency bail had been mailed to the Clerk’s Office. Because Petitioner’s motion, ECF No. 60, is based on the presumption that he had a meritorious § 2255 petition pending before the Court, that motion for bail on the basis of his since-denied habeas petition is now moot.

Petitioner is correct that district courts have authority to release habeas petitioners on bail pending a decision on the merits of their cases. But that power is to be used “very sparingly,” and only in cases where there appears to be a high likelihood of success. *Cherek v. United States*, 767 F.2d 335, 337 (7th Cir. 1985). *See Clark v. Hoffner*, No. 16-11959,

2020 WL 170380, at *2 (E.D. Mich. Apr. 8, 2020) (explaining that only in rare circumstances will a habeas petitioner be given bail before a merits decision on the habeas motion). In order to receive bail pending a decision on the merits of a habeas petition, a prisoner must show: (1) a substantial claim of law based on the facts surrounding the petition; and (2) circumstances that make the motion for bail “exceptional and deserving of special treatment in the interests of justice.” *Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir. 1990) (citing *Aronson v. May*, 85 S. Ct. 3, 5 (1964)).

Here, the Court has already adjudicated Petitioner’s habeas petition and determined that he failed to establish grounds for habeas relief. Because the habeas motion has been denied, the Court cannot release Petitioner on the basis of his pending petition. The motion for emergency bond is therefore **DENIED**.

SO ORDERED.

Dated: June 12, 2020

s/Terrence G. Berg

TERRENCE G. BERG

UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that this Order was electronically filed, and the parties and/or counsel of record were served on June 12, 2020.

s/A. Chubb

Case Manager